

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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Jerome Pickett,	:	
	:	
Plaintiff,	:	Civil Action No.: 1:16-cv-04310-DLC
v.	:	
Sallie Mae Bank,	:	<b>FIRST AMENDED COMPLAINT</b>
	:	
Defendant.	:	
	:	
	:	

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For this Amended Complaint, Plaintiff, Jerome Pickett, by undersigned counsel, states as follows:

**JURISDICTION**

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* ("TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

**PARTIES**

3. Plaintiff, Jerome Pickett ("Plaintiff"), is an adult individual residing in New York, New York, and is a "person" as defined by 47 U.S.C. § 153(39).
4. Defendant, Sallie Mae Bank ("Sallie Mae"), is a Delaware business entity located in Reston, Virginia, and is a "person" as defined by 47 U.S.C. § 153(39).

**ALLEGATIONS APPLICABLE TO ALL COUNTS**

5. In or around 2014, Sallie Mae began calling Plaintiff's cellular telephone, number 201-XXX-5396, using an automatic telephone dialing system ("ATDS") and using an artificial or prerecorded voice.

6. When Plaintiff answered calls from Sallie Mae, he heard a prerecorded message which stated that Sallie Mae was calling with important information regarding an account.

7. Plaintiff never provided his cellular telephone number to Sallie Mae and never provided his consent to receive calls from Sallie Mae.

8. In or around December 2015, Plaintiff called Sallie Mae to find out the purpose of the calls and to request that they cease. At that time, Sallie Mae told Plaintiff that they were not able to locate his number in the dialing system.

9. Nevertheless, Sallie Mae continued to place automated calls to Plaintiff's cellular telephone number.

**COUNT I**  
**VIOLATIONS OF THE TCPA -**  
**47 U.S.C. § 227, et seq.**

10. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

11. At all times mentioned herein, Defendant called Plaintiff's cellular telephone number

12. Defendant continued to place automated calls to Plaintiff's cellular telephone number despite knowing that it lacked consent to do so. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

13. The telephone number called by Defendant was assigned to a cellular telephone service for which Plaintiff incurs charges pursuant to 47 U.S.C. § 227(b)(1).

14. Plaintiff was annoyed, harassed and inconvenienced by Defendant's continued calls.

15. The calls from Defendant to Plaintiff were not placed for "emergency purposes"

as defined by 47 U.S.C. § 227(b)(1)(A)(i).

16. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call made in negligent violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

17. Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 for each call made in knowing and/or willful violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

**PRAAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully prays that judgment be awarded in Plaintiff's favor and against Defendant as follows:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
3. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: July 12, 2016

Respectfully submitted,

By /s/ Sergei Lemberg  
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Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that on July 12, 2016, a true and correct copy of the foregoing Amended Complaint was served electronically by the U.S. District Court for the Southern District of New York Electronic Document Filing System (ECF) and that the document is available on the ECF system. Additionally, a copy was mailed via Electronic Mail:

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*Attorneys for Defendant Sallie Mae Bank*

By /s/ Sergei Lemberg  
Sergei Lemberg